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REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Applicants : Guy A. Story, Jr., et al.
App. No : 09/222,336
Filed : December 28, 1998
For : LICENSE MANAGEMENT FOR
DIGITAL CONTENT
Examiner : Retta, Yehdega
Conf # : 3308

Mail Stop Issue Fee

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

After review of the Office's patent term adjustment calculation in consideration of 35 USC 154(b)(1)(B) time, Applicants hereby submit this Request for Reconsideration of Patent Term Adjustment (PTA) to correct the Office's initial PTA calculation of 370 days.

Applicants believe the available PTA to be **511 days** based on the following facts:

1. The Office's PTA calculation incorrectly reflects the period of time between the three (3) year date of April 20, 2004 and the filing of the RCE dated November 22, 2004. The number of days within this period of time is 215 and not 74 as identified in the Office's PTA calculation at number 187.5 (first item).
2. Applicants are only challenging the final calculation as per 37 CFR 1.705(d), however, provide all relevant dates as required under 1.703(a)-(e). Period of time being challenged is bolded within the below table for easy identification.
3. Applicants' are challenging the calculation for B Delays identified below. The subject three (3) year date is 04/20/2004. Between 04/20/2004 and the filing of a Request for Continued Examination on 11/22/2004, 215 days passed. This is a difference of 141 days.

Applicants' provide the following relevant dates during prosecution. These dates and PTA calculations are not being challenged as the application has already issued.

Prosecution Delays NOT BEING CHALLENGED			Delays	
#	Initial	Responsive	PTO	App
1	04/20/2001 Continued Prosecution Application filed	06/28/2001 Non-Final Action	0	0
2	06/28/2001 Non-Final Action	01/15/2002 Reply after Non-Final Action	0	109
3	01/15/2002 Reply after Non-Final Action	02/25/2002 Final Rejection	0	0
4	02/25/2002 Final Rejection	09/12/2003 Decision Granting Petition to Revive	0	472
5	02/25/2002 Final Rejection	07/14/2003 Notice of Appeal and Appeal Brief	0	415
6	07/14/2003 Notice of Appeal and Appeal Brief	12/01/2003 Non-Final Action	17	0
7	12/01/2003 Non-Final Action	02/27/2004 Reply After Non-Final Action	0	0
8	02/27/2004 Reply after Non-Final Action	05/18/2004 Final Rejection	0	0
9	05/18/2004 Final Rejection	11/22/2004 Request for Continued Examination	0	96
10	11/22/2004 Request for Continued Examination	02/24/2005 Non-Final Action	0	0
11	02/24/2005 Non-Final Action	05/27/2005 Reply After Non-Final Action	0	3
12	05/27/2005 Reply After Non-Final Action	08/11/2005 Final Rejection	0	0
13	08/11/2005 Final Rejection	02/09/2006 Notice of Appeal & Pre-Appeal Brief Request for Review	0	90
14	02/09/2006 Notice of Appeal & Pre-Appeal Brief Request for Review	09/19/2011 Final Board Decision – Reversed	2049	0
15	01/17/2007 Notice of Abandonment	07/18/2007 Petition to Revive – Granted	0	182

Prosecution Delays NOT BEING CHALLENGED			Delays	
#	Initial	Responsive	PTO	App
16	01/17/2007 Notice of Abandonment	10/10/2007 Notice Rescinding Abandonment	0	(182)
17	05/01/2007 Appeal Brief	10/16/2007 Examiner's Answer	45	0
18	09/19/2011 Final Board Decision – Reversed	01/12/2012 Notice of Allowance	0	0
19	01/12/2012 Notice of Allowance	04/10/2012 Payment of Issue Fee	0	0
20	04/10/2012 Payment of Issue Fee	05/08/2012 Issue Date	0	0
3-Year PTO to Issue Patent (B Delays)			Delays	
	Initial	Responsive	PTO	App
	04/20/2004 Three (3) Year Date	11/22/2004 Request for Continued Examination	215	0

USPTO Patent Term Adjustments as identified on Exhibit A are summarized as follows:

Type of Delay	Days	Corrected
A Delays – Row #6 above and line #59 on Exhibit A	17	17
B Delays - Line #187.5 on Exhibit A (36 Month Calculation)	74	215
C Delays – Row #14 above and line # 155 on Exhibit A	2049	2049
USPTO Total Delays	2140	2281
Minus Applicant Delays Identified in Exhibit A	(1770)	(1770)
	370	511

Applicants' are challenging the calculation for B Delays identified above. The subject three (3) year date is 04/20/2004. Between 04/20/2004 and the filing of a Request for Continued Examination on 11/22/2004, 215 days passed. This is a difference of 141 days.

The Office's PTA calculation is attached as Exhibit A. The present application is not subject to a terminal disclaimer.

Applicant hereby requests that the Office correct the post issuance calculation of PTA to reflect **511** days.

The \$200 fee prescribed by 37 CFR 1.18(e) is enclosed for this application.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 9, 2012

By: 

Mauricio A. Uribe
Registration No. 46,206
Attorney of Record
Customer No. 79,502
(206) 405-2000

Exhibit A

09/222,336	LICENSE MANAGEMENT FOR DIGITAL CONTENT	ADBLE.009A	07-03-2012::15:59:57
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/222,336			
Filing or 371(c) Date:	12-28-1998	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	05-08-2012	Non-Overlapping USPTO Delays:	2140
A Delays:	17	PTO Manual Adjustments:	0
B Delays:	74	Applicant Delays:	1770
C Delays:	2049	Total PTA Adjustments:	370
Patent Term Adjustment History		Explanation Of Calculations	

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
187.5	11-21-2004	PTA 36 Months	74		29
187	05-08-2012	Patent Issue Date Used in PTA Calculation			0
186	04-12-2012	Export to Final Data Capture			0
185	04-11-2012	Dispatch to FDC			0
184	04-11-2012	Application Is Considered Ready for Issue			0
183	04-10-2012	Issue Fee Payment Verified			0
182	04-10-2012	Issue Fee Payment Received			0
181	03-09-2012	Finished Initial Data Capture			0
180	02-24-2012	Printer Rush- No mailing			0
179	02-24-2012	Printer Rush- No mailing			0
178	02-22-2012	Pubs Case Remand to TC			0
177	01-13-2012	Export to Initial Data Capture			0
174	01-12-2012	Mail Notice of Allowance			0
173	01-10-2012	Office Action Review			0
172	01-10-2012	Office Action Review			0
171	01-10-2012	Issue Revision Completed			0
170	01-10-2012	Document Verification			0
169	01-10-2012	Notice of Allowance Data Verification Completed			0

168	01-10-2012	Case Docketed to Examiner in GAU	0
167	01-05-2012	Allowed Case Returned to the Examiner for Clerical Processing	0
166	01-05-2012	Office Action Review	0
165	01-05-2012	Office Action Review	0
164	12-29-2011	Reasons for Allowance	0
163	12-29-2011	Allowability Notice	0
157	09-19-2011	Electronic Review	0
156	09-19-2011	Email Notification	0
155	09-19-2011	Mail BPAI Decision on Appeal - Reversed	2049 84
154	09-15-2011	BPAI Decision - Examiner Reversed	0
153	08-31-2011	Waiver of Hearing by Appellant	0
152	08-10-2011	Email Notification	0
151	08-10-2011	Notification of Appeal Hearing	0
149	04-29-2010	Docketing Notice Mailed to Appellant	0
148	04-28-2010	Assignment of Appeal Number	0
147	04-27-2010	Change in Power of Attorney (May Include Associate POA)	0
146	04-27-2010	Correspondence Address Change	0
145	04-17-2010	Appeal Awaiting BPAI Docketing	0
143	04-17-2010	Mail Miscellaneous Communication to Applicant	0
142	04-16-2010	Miscellaneous Communication to Applicant - No Action Count	0
141	04-15-2010	Mail Miscellaneous Communication to Applicant	0
140	04-13-2010	Miscellaneous Communication to Applicant - No Action Count	0
134	04-08-2009	Order Returning Undocketed Appeal to the Examiner	0
133	03-17-2009	Appeal Awaiting BPAI Docketing	0
132	03-12-2009	Mail Reply Brief Noted by Examiner	0

131	03-11-2009	Reply Brief Noted by Examiner	0
130	08-16-2006	Information Disclosure Statement considered	0
129	01-08-2009	Date Forwarded to Examiner	0
128	01-06-2009	Reply Brief Filed	0
127	01-06-2009	Request for Oral Hearing	0
126	11-24-2008	Exam. Ans. Review Complete	0
125	11-07-2008	Mail Supplemental Examiner's Answer	84
124	11-06-2008	2nd or Subsequent Examiner's Answer to Appeal Brief	0
123	09-03-2008	Date Forwarded to Examiner	0
122	08-20-2008	Appeal Brief Filed	0
119	08-20-2008	Request for Extension of Time - Granted	0
118	06-23-2008	Notice -- Defective Appeal Brief	0
117	06-18-2008	Date Forwarded to Examiner	0
116.1	12-12-2007	Defective / Incomplete Appeal Brief Filed	0
116	12-12-2007	Appeal Brief Filed	0
115	12-12-2007	Miscellaneous Incoming Letter	0
114	12-12-2007	Request for Oral Hearing	0
112	11-08-2007	Notice -- Defective Appeal Brief	0
111	11-08-2007	Mail Post-examiner ans. com	0
110	11-05-2007	Exam. Ans. Review Complete	0
109	11-05-2007	Post-examiner ans. com	0
108	11-05-2007	Appeal Brief Review Complete	0
106	10-16-2007	Mail Examiner's Answer	0
105	10-10-2007	Examiner's Answer to Appeal Brief	0
104	10-10-	Date Forwarded to Examiner	0

	2007			
103.1	10-10-2007	Defective / Incomplete Appeal Brief Filed		0
103	10-10-2007	Appeal Brief Filed		0
102	10-10-2007	Mail Notice of Rescinded Abandonment		0
101	10-10-2007	Notice of Rescinded Abandonment in TCS		0
100	07-27-2007	Correspondence Address Change		0
99	07-27-2007	Change in Power of Attorney (May Include Associate POA)		0
98	07-18-2007	Mail-Petition to Revive Application - Granted	182	96
97	05-01-2007	Petition Entered		0
96	01-17-2007	Mail Abandonment for Failure to Respond to Office Action		0
95	01-06-2007	Aband. for Failure to Respond to O. A.		0
94	08-16-2006	Reference capture on IDS		0
93.7	08-16-2006	Information Disclosure Statement (IDS) Filed		0
93	08-16-2006	Information Disclosure Statement (IDS) Filed		0
92	06-07-2006	Correspondence Address Change		0
91	06-08-2006	Change in Power of Attorney (May Include Associate POA)		0
90	03-29-2006	Mail Appeals conf. Proceed to BPAI		0
89	03-27-2006	Pre-Appeals Conference Decision - Proceed to BPAI		0
88	03-04-2006	Correspondence Address Change		0
87	03-06-2006	Change in Power of Attorney (May Include Associate POA)		0
86	03-04-2006	IFW TSS Processing by Tech Center Complete		0
85	02-09-2006	Request for Pre-Appeal Conference Filed		0
84	02-09-2006	Notice of Appeal Filed	90	81
83	02-09-2006	Request for Extension of Time - Granted		0
82	11-30-2005	Change in Power of Attorney (May Include Associate POA)		0

81	08-11-2005	Mail Final Rejection (PTOL - 326)		0
80	08-05-2005	Final Rejection		0
79	06-06-2005	Date Forwarded to Examiner		0
78	05-27-2005	Response after Non-Final Action	3	77
77	02-24-2005	Mail Non-Final Rejection		0
76	02-18-2005	Non-Final Rejection		0
75	12-09-2004	Date Forwarded to Examiner		0
74	11-22-2004	Amendment Submitted/Entered with Filing of CPA/RCE		0
73	12-09-2004	Date Forwarded to Examiner		0
72	11-22-2004	Request for Continued Examination (RCE)	96	64
71	12-09-2004	Disposal for a RCE / CPA / R129		0
70	11-22-2004	Request for Extension of Time - Granted		0
66	11-22-2004	Workflow incoming amendment IFW		0
65	11-22-2004	Workflow - Request for RCE - Begin		0
64	05-18-2004	Mail Final Rejection (PTOL - 326)		0
63	05-14-2004	Final Rejection		0
62	03-01-2004	Amendment Crossed in Mail		0
61	03-02-2004	Date Forwarded to Examiner		0
60	02-27-2004	Response after Non-Final Action		0
59	12-01-2003	Mail Non-Final Rejection	17	56
58	11-24-2003	Non-Final Rejection		0
57	10-09-2003	Date Forwarded to Examiner		0
56	07-14-2003	Appeal Brief Filed		0
55	07-14-2003	Notice of Appeal Filed	415	39
53	09-12-2003	Mail-Petition to Revive Application - Granted	875	28

52	07-14-2003	Petition Entered		0
51	05-19-2003	Mail Advisory Action (PTOL - 303)		0
50	05-16-2003	Advisory Action (PTOL-303)		0
49.7	01-21-2003	Information Disclosure Statement (IDS) Filed		0
49	01-21-2003	Information Disclosure Statement (IDS) Filed		0
48	05-16-2003	Date Forwarded to Examiner		0
47	04-30-2002	Amendment after Final Rejection		0
40	04-23-2002	Case Docketed to Examiner in GAU		0
39	02-25-2002	Mail Final Rejection (PTOL - 326)		0
38	02-23-2002	Final Rejection		0
37	01-17-2002	Date Forwarded to Examiner		0
36	01-15-2002	Response after Non-Final Action	109	34
35	01-15-2002	Request for Extension of Time - Granted		0
34	06-28-2001	Mail Non-Final Rejection		0
33	06-26-2001	Non-Final Rejection		0
32.7	06-18-2001	Information Disclosure Statement (IDS) Filed		0
32	06-18-2001	Information Disclosure Statement (IDS) Filed		0
31	04-20-2001	Preliminary Amendment		0
30	04-27-2001	Date Forwarded to Examiner		0
29	04-20-2001	Continuing Prosecution Application - Continuation (ACPA)		0
28	04-20-2001	Mail Express Abandonment (During Examination)		0
27	04-20-2001	Express Abandonment (during Examination)		0
26	04-20-2001	Workflow - Request for CPA - Finish		0
25	04-20-2001	Request for Extension of Time - Granted		0
24	04-27-	Correspondence Address Change		0

	2001		
23	04-20- 2001	Workflow - Request for CPA - Begin	0

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